

Notice of Allowability

Application No.

10/050,398

Examiner

Keith Hendricks

Applicant(s)

RABINOWITZ, ISRAEL N.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to ____.
2. ☒ The allowed claim(s) is/are 1-10.
3. ☒ The drawings filed on 15 January 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: ____.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. ____.
 - (b) ☐ including changes required by the proposed drawing correction filed ____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. ____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. ____ |
| 3 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No. <u>1-15-2002</u> | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Donald Mon on December 02, 2003.

The application has been amended as follows:

(i) Before the first line of the specification, please amend the Title of the application to read as follows:

METHOD OF PRODUCING AQUEOUS EXTRACTS FROM ALMOND HULLS

(ii) Please amend claims 2-3, 5 and 7-9 to read as follows:

2. The method of claim 1 further maintaining said temperature through step ~~[(a)]~~ (e).

3. The method of claim 1 further including this further step of adjusting the Brix value of the resultant solution by addition of water ~~[to one acceptable to the human taste]~~.

5. The method of claim 1, ~~[steps (a) (b)]~~ further comprising drying said solids produced from step (d), and comminuting said dry solids to form a dietary fiber for food products.

7. The method of claim 1, ~~[steps (a) (b)]~~ further comprising adding yeast or phytase to said solution produced from step (d), reacting then to increase inositol in the solution, separating solids from said solution and ultrafiltering the product to provide a juice product or ingredient for ~~[other]~~ food products.

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8. The method of claim 7 in which the product [~~of claim 1~~] is concentrated to a syrup useful in food products.

9. A food product of the type of confection, jam or jelly, comprising the product of the method of claim 1 combined with [~~confection, jam or jelly~~] additional confection, jam or jelly ingredients.

(iii) The following is an examiner's statement of reasons for allowance:

As stated at page 7 of the specification,

it is well known that many fruit juices are produced by variations of press procedures on the fruits which are naturally composed of 50%-90% moisture containing the juice molecules of interest. Extraction efficiency of juices from such fruits, using press procedures, is in the range of 55%-75%. Continuous counter current juice extraction from the same fruits can increase extraction efficiency to 80%-98%.

US Patent 5,160,756, entitled "Extraction of Products from Almond Fruit", provides a method comprising the steps of soaking almond hulls in warm water to extract soluble substances, but without the exertion of force upon the hulls, then followed by hull separation, clarification, etc. The first paragraph of the Detailed Description of this patent states that "the hulls will preferably not be ground or pulverized before or during the soak procedure." This clearly differs from the instant claims, which comminute almond hulls to a particle size of between 5 and 100 mesh as an initial step prior to soaking. Furthermore, no ultrafiltration step is disclosed or suggested by the reference. WO 95/05091 discloses a method where products such as sugar cane, sugar beets or almond hulls (pg. 37) are first ground to provide small particles and fines, which are then treated with liquid to extract the solubles therein. The process utilizes a counter-current extraction process, but does not teach or suggest the instantly-claimed method. Specifically, it does not teach or suggest the combination of steps which include both the physical separation of the solids from the solution, such as by centrifugation or in a rotary vacuum drum, and a distinct step of ultrafiltration (steps 'd' and 'e' of claim 1). See Figure 1 of the instant application. Thus, as the prior art does not teach or suggest the combination of steps for extraction of soluble components from almond hulls as instantly claimed, including a teaching or motivation to include an ultrafiltration step, the claims are free of the prior art.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keith Hendricks whose telephone number is (703) 308-2959. The examiner can normally be reached on M-F (8:30am-6pm); First Friday off.

**** NOTE:** Beginning December 10, 2003, the examiner's phone number will be (571) 272-1401.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703) 308-3959. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


KEITH HENDRICKS
PRIMARY EXAMINER